

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KENNETH THOMAS,)
)
 Plaintiff,) No. 08 C 3009
)
 v.) Judge Aspen
) Magistrate Judge Mason
AMERICAN GENERAL FINANCE, INC.)
)
 Defendant)

MOTION TO EXTEND TIME TO RESPOND TO COMPLAINT

Defendant American General Finance, Inc. (“American General Finance”), through its attorney, Stephen L. Tyma, pursuant to Fed. R. Civ. Pro. 6(b), hereby requests that the Court extend by twenty-one days to September 18, 2008 the date by which it is to respond to the Complaint in this action. In support of its request, American General Finance represents as follows:

1. The gravamen of Plaintiff Kenneth Thomas’s Complaint is that American General Finance obtained access to his credit record in connection with an uninvited solicitation from American General Finance that Plaintiff or his wife apply for credit or a loan from American General Finance. For this alleged offense, Plaintiff seeks damages and other relief from American General Finance.

2. After American General Finance moved to quash Plaintiff’s first attempt at service through a branch office of an affiliated corporation, Plaintiff secured an alias summons which was served on the registered agent of the same affiliate. That summons was served on the registered agent on August 8, 2008.

3. Under Fed. R. Civ. Pro. 12(a)(1)(A), American General Finance’s response to the Complaint is due on or before August 28, 2008.

4. The issues raised in Plaintiff's Complaint require an investigation to determine if there are records kept with respect to the incident of which Plaintiff complains and whether the contact of which Plaintiff complains was initiated by American General Finance or by another entity. As the Court can appreciate, it has become common practice for businesses making telephone solicitations of consumers to record (with the solicited party's consent) conversations and for their employees who make calls to keep contemporaneous notes of the calls. This necessitates a review of large numbers of records to determine what records there are which relate to the Plaintiff's claims, and locating those records is essential to a determination of whether any response will be made on the merits of the claims raised in the Complaint.

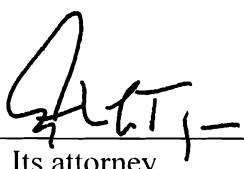
5. In addition, the ability of American General Finance to prepare a response is affected by the schedules of present counsel and in-house counsel. Undersigned counsel has a trial set for September 3, 2008 in the Circuit Court of Cook County for the case of *Scott D. Pollock & Associates, P.C. v. Mohammad Younis*, No. 08 M1 109496 in which he represents the plaintiff. Counsel also took a previously scheduled vacation from August 14, 2008 through August 24, 2008. The in-house counsel to which this case is assigned, Edward Ray, who operates out of an office in Evansville, Indiana, is on family leave through September 8, 2008. The combined effect of these commitments and of the effort required to search phone and note records makes it virtually impossible for counsel and client to communicate concerning handling of the case in time to permit preparation of an appropriate response to Plaintiff's Complaint.

6. The present motion is not made for purposes of creating unnecessary delay, and Defendant will be severely prejudiced if the extension of time requested, twenty-one days to September 18, 2008, is not granted.

For the foregoing reasons, Defendant American General Finance, Inc. respectfully requests that the Court grant Defendant a twenty-one day extension to September 18, 2008 of the deadline for Defendant to respond to the Complaint of Plaintiff Kenneth Thomas and grant American General Finance such other relief as the Court deems just and equitable under the circumstances.

Dated: August 27, 2008

AMERICAN GENERAL FINANCE, INC.

By: 
Its attorney

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